

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 1834 of 2016

IN

Civil Writ Jurisdiction Case No. 14032 of 2016

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Shib Nath Rudra, Son of Late Rabindra Nath Rudra, Resident of
Quarter No. 9/B, Koshi Colony, Birpur, Police Station, Birpur, District-
Supaul. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources
Department, Bihar, Patna.
 2. Principal Secretary, Water Resources Department, Bihar, Patna.
 3. Joint Secretary, Water Resources Department, Bihar, Patna.
 4. Chief Engineer, Irrigation Creation, Water Resources Department,
Birpur.
 5. Chief Engineer, Irrigation Creation, Water Resources Department,
Dehri.
 6. Executive Engineer, Eastern Embankment Division No. 2, Birpur
(Supaul).
 7. Executive Engineer, Jamania Pump Canal Division, Mohania
(Kaimur). Respondent/s
- =====

Appearance :

For the Appellant/s : Mr. P.K. Shahi, Sr. Adv.
: Mr. Syed Asgher Najmi
For the Respondent/s : Mr. Harish Kumar-GP8
: Mr. Binod Kumar Sinha, AC to GP-8

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 28-09-2016

The petitioner-appellant is aggrieved by the order, dated
31.08.2016, passed, in CWJC No. 14032 of 2016, by a learned
single Judge of this Court, dismissing the writ petition of the
petitioner-appellant, who is a Senior Accounts Clerk in the



Office of the Executive Engineer, Water Resources Department, Eastern Embankment Division No. 2, Government of Bihar, Birpur, Supaul, whereby he had put to challenge the order, dated 17.08.2016 (Annexure-1 to the writ petition) issued by the Joint Secretary, Water Resources Department, Government of Bihar i.e. Respondent No. 3, transferring the petitioner-appellant from Birpur to Mohania from the Office of the Executive Engineer, Water Resources Department, Eastern Embankment Division No. 2, Birpur (Supaul) to the Office of the Executive Engineer, Jamania Pump Canal Division, Mohania.

We have heard Mr. P.K. Shahi, learned Senior counsel for the appellant and Mr. Harish Kumar, learned Counsel for the State.

A bare reading of the order, dated 17.08.2016, clearly indicates that the impugned order of transfer was made on the ground of alleged allegation that the petitioner-appellant had misbehaved with a female employee in the said Office. The order of transfer, so made, is, therefore, clearly penal in nature and leaves stigma on the petitioner-appellant and the said order cannot be sustained and has to be interfered with.

In the result, the order, dated 31.08.2016, passed, in CWJC No. 14032 of 2016, by a learned single Judge is, hereby,

set aside. We also set aside the order of transfer, dated 17.08.2016, impugned in the said writ petition.

The interference with the order, dated 17.08.2016, shall not bar the competent authority from transferring the petitioner-appellant, if the situation, in the interest of public and/or administration, so warrants. We also make it clear that our interference with the order, dated 17.08.2016, shall not create any legal impediment on the part of the competent authority to proceed against the petitioner-appellant in accordance with law for the alleged misbehaviour and passing such interlocutory or interim order as may be deemed necessary in the way of administration and in the interest of justice.

With the above observations and directions, the Appeal stands allowed.

(I.A. Ansari, CJ)

(Dr. Ravi Ranjan, J)

Vikash/Vishwambhar/-

NAFR/NAFR	NAFR
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